

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

JAMES LEE STULL,

Plaintiff,

v.

CIVIL ACTION NO. 1:13CV211
(Judge Keeley)

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

**ORDER ADOPTING MAGISTRATE JUDGE'S
OPINION/REPORT AND RECOMMENDATION**

Pursuant to 28 U.S.C. §636(b)(1)(B), Rule 72(b), Federal Rules of Civil Procedure and Local Court Rule 4.01(d), on September 18, 2013, the Court referred this Social Security action to United States Magistrate Judge John S. Kaul1 with directions to submit proposed findings of fact and a recommendation for disposition.

On April 21, 2014, Magistrate Judge Kaul1 filed his Report and Recommendation ("R&R") (dkt. no. 14), and directed the parties, in accordance with 28 U.S.C. §636(b)(1) and Rule 6(e), Fed. R. Civ. P., to file with the Clerk of Court any written objections within fourteen(14) days after being served with a copy of the R&R. He further directed the parties that failure to file objections would result in a waiver of the right to appeal from the judgment of this Court. The parties have not filed any objections and the time in which to do so has expired.

ORDER ADOPTING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION

Upon consideration of Magistrate Judge Kaull's recommendation and having received no written objections,¹ the Court accepts and approves the R&R and **ORDERS** that this civil action be disposed of in accordance with the recommendation of the magistrate judge. Accordingly, the Court

1. **DENIES** the Commissioner's motion for Summary Judgment (dkt. no. 11);
2. **GRANTS IN PART** the plaintiff's motion for Summary Judgment (dkt. no.9);
3. **REMANDS** this action to the Commissioner for further consideration in accordance with the recommendation contained in the R&R; and
4. **DISMISSES WITH PREJUDICE** and **RETIRE**s this civil action from the docket of this Court.

Pursuant to Fed.R.Civ.P. 58, the Court directs the Clerk of Court to enter a separate judgment order and to transmit copies of this Order to counsel of record. If a petition for fees pursuant to

¹ The parties' failure to object to the Report and Recommendation not only waives their appellate rights in this matter, but also relieves the Court of any obligation to conduct a *de novo* review of the issues presented. See Wells v. Shriners Hospital, 109 F.3d 198, 199-200 (4th Cir. 1997); Thomas v. Arn, 474 U.S. 140, 148-153 (1985).

ORDER ADOPTING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION

the Equal Access to Justice Act (EAJA) is contemplated, the plaintiff is warned that, as announced in Shalala v. Schaefer, 113 S.Ct. 2625 (1993), the time for such a petition expires ninety days thereafter.

DATED: May 29, 2014.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE